



DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-TPS-11136]

[2200-686]

Notice of Fee Schedule for Reviewing Historic Preservation Certification Applications and Instructions

AGENCY: National Park Service, Interior.

ACTION: Notice of Fee Schedule and Instructions.

SUMMARY: The National Park Service (NPS) is revising the fees it charges for reviewing Historic Preservation Certification Applications.

DATES: *Effective Date:* [insert date 30 days from date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Brian Goeken, Chief, Technical Preservation Services, National Park Service, 1849 C St., NW, Org Code 2255, Washington, DC 20240; telephone 202-354-2033; e-mail: brian_goeken@nps.gov.

SUPPLEMENTARY INFORMATION:

I. Background

II. Response to Comments

III. Final Action

I. Background

The NPS charges fees for reviewing certification applications for Federal tax incentives contained in Section 47 of the Internal Revenue Code (referred to herein as “Historic Preservation Certification Applications”). The fees have not been changed since 1984. Current fees do not cover the full costs of administering the program.

The fee schedule established in 1984 expressed the fees in fixed dollar amounts and did not contain provisions for adjusting the fees over time. This method contrasts with the now-standard Government practice of establishing and revising fees in periodic *Federal Register* notices, pursuant to the Independent Offices Appropriations Act (IOAA) and OMB Circular A-25. Accordingly, the NPS published a final rulemaking, effective June 27, 2011, which stated that “Fees are charged for reviewing certification requests according to the schedule and instructions provided in public notices in the Federal Register by NPS.” 36 C.F.R. § 67.11(a) (2011). This rule authorizes the NPS to make the changes it is now implementing. The NPS will be retaining the collected fees in accordance with Pub. L. No. 106-113–Appendix C, 113 Stat. 1501A-142 (Nov. 29, 1999), which provides that notwithstanding any other provision of law, the NPS may hereafter recover all fees derived from providing necessary review services associated with historic preservation tax certification, and such funds shall be available until expended without further appropriation for the costs of such review services.

II. Response to Comments

On June 22, 2012, the NPS published the proposed revised fee schedule (77 Fed. Reg. 37708) to solicit public comment. A notice published July 6, 2012, corrected the addresses for submitting comments and extended the comment period (77 Fed. Reg. 40080). The NPS received four comments by the close of the comment period (August 6, 2012).

The proposed fee schedule was:

Cost of Rehabilitation	Fee
\$0 - \$49,999	\$-0-
\$50,000 - \$3,849,999	\$800 + 0.15% (0.0015) of rehabilitation costs over \$50,000
\$3,850,000 or more	\$6,500

Two of the four comments expressed support for the new fee schedule.

The third comment expressed general support for the new fee schedule, but suggested that additional fee revenues realized through the change in fees be used to expand services provided to applicants. The NPS notes that the current level of fees collected does not cover the costs of administering the program. The increase in fees collected as a result of the revised fee schedule is necessary to maintain the existing level of services. To the extent that the revised fee schedule

may accommodate some expanded services as part of the program, such additions may be considered in the future.

The final comment suggested that the minimum rehabilitation costs for which fees apply should be raised to projects of \$100,000, or even higher, rather than \$50,000 as proposed. The commenter stated that this would make the rehabilitation tax credit more attractive for small projects. In setting the revised fee schedule as initially proposed, the NPS proposed to raise the minimum project level at which fees are charged from \$20,000 (the level in effect since 1984) to \$50,000 in rehabilitation costs. This change was roughly proportional to inflation since 1984. However, upon consideration of this comment, the NPS considered the amount of the fee relative to the value of the credit and agrees that the minimum level at which fees are charged should be raised further. Under the current fee schedule, a review fee of \$500 is charged for projects less than \$100,000, equivalent to 12.5% of the value of the incentive (20% of the cost of the rehabilitation) for a \$20,000 project; and under the initially proposed schedule, the review fee would be equal to 8% of the value of the incentive for a \$50,000 project. After considering the costs to the Government of administering the program, the value of the service to the recipient, and the public policy of promoting investment in our Nation's historic buildings, the NPS considers that raising the minimum project level at which fees are assessed to \$80,000 (with a review fee equivalent to 5.3% of the value of the incentive) effectively balances these goals. It would preserve the long-standing NPS practice of not charging for the smallest projects, and promote the rehabilitation of historic buildings without substantially increasing the cost of administering the program or resulting in significant loss of fee revenues. Raising the level

further, however, would mean more substantial loss of such revenues or require that fees be increased.

In consideration of this change, the fee schedule has been revised as set forth below so that no fee is charged for projects with rehabilitation costs less than \$80,000. There is no change as the result of this revision to the fees charged to projects with rehabilitation costs of \$80,000 and above to that previously proposed.

III. Action

Fee Schedule Information and Instructions

Fees will be charged for reviewing Historic Preservation Certification Applications in accordance with the schedule appearing below. The fee schedule and instructions concerning the same may also be obtained through the NPS's website at <http://www.nps.gov/tps/tax-incentives.htm>.

The new fee schedule applies only to new applications received by State Historic Preservation Offices after the effective date of this fee schedule. Part 3 applications describing completed work in previously reviewed Part 2 applications will be charged according to the schedule in effect at the time the Part 2 was reviewed.

Fee Schedule

Applicants should make no payment until requested to do so by the NPS. A certification decision will not be issued on an application until the appropriate remittance is received. Fees are nonrefundable.

Application review fees (rounded to the nearest dollar) are based on the applicant's estimated rehabilitation costs (defined as "Qualified Rehabilitation Expenditures," or "QREs," pursuant to section 47 of the Internal Revenue Code).

Cost of Rehabilitation	Fee
\$0 - \$79,999	\$-0-
\$80,000 - \$3,849,999	\$845 + 0.15% (0.0015) of rehabilitation costs over \$80,000
\$3,850,000 or more	\$6,500

1. The application review fee will, upon request by the NPS, be payable one-half upon NPS receipt of a Part 2—Description of Rehabilitation, and one-half upon NPS receipt of a Part 3—Request for Certification of Completed Work.
2. If the estimated rehabilitation costs reported on the Part 3 application are lower than those reported on the Part 2 application previously submitted, then the Part 3 portion of the application review fee will be based on the costs reported on the Part 3. No refund of the Part 2 fee difference—if any—will be made.

3. If the estimated rehabilitation costs reported on the Part 3 application are higher than those reported on the Part 2 application previously submitted, then the Part 3 portion of the fee will be 100% of the review fee less the Part 2 portion of the fee previously paid.
4. If Part 2 and Part 3 applications are received at the same time, the application review fee will be assessed on the estimated rehabilitation costs reported on the Part 3.
5. For a project involving multiple buildings that were functionally related historically pursuant to 36 CFR pt. 67, the application review fee will be based on the estimated rehabilitation costs of the entire project.
6. For a phased project pursuant to 36 CFR pt. 67, the application review fee will be based on the total estimated rehabilitation costs for all phases.
7. Projects requiring submittal of a new Part 2 application will be assessed an application review fee equal to the fee for a new Part 2 application. No refunds or credits toward the new application will be issued for the fees paid for the prior Part 2 application.

Director, National Park Service

November 5, 2012____
Date

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